

REMARKS

In response to the aforementioned office letter, Claims 1-4 and 9-11 were rejected on the basis of 35 U.S.C. 112. Specifically, the Examiner contended that the cover moving across the swimming pool is a method limitation in an otherwise apparatus claim. The applicant has removed that language from clause (a) and has inserted a similar clause to the effect that the swimming pool cover does move across the swimming pool with at least the force of gravity or buoyancy. If this is a method limitation, there would appear to be no reason why it has to be incorporated in the actual body of the claim. In fact, these are natural forces which do act upon the swimming pool cover and natural forces, per se, would not lend patentability. It is therefore believed that the amendments to Claim 1 eliminate any objections with regard to Claims 1-4 and 9-11.

With regard to Claim 13, the applicant has amended the claim to recite that the pool cover system can operate with the cover being subaqueously located or elevated. It is believed that this amendment to Claim 13 thereby renders Claims 13-18 and 68-77 allowable.

With regard to Claim 27, the Examiner took the position that a travel limiting end position is indefinite since it does not represent a structural element. Reconsideration of this position is respectfully urged. An item can have a travel limiting end position and, indeed, it may be a fixed end position and, in that

sense, it is a structural element. It does not have to be tied to something which is a physical item. As a simple example, many claims frequently recite a member moving between a first position and a second position. It is not necessary for those positions to be actual physically defined positions in terms of a physical structure one can touch.

Nevertheless, the applicant has amended Claim 27 to recite that the end positions are pre-set end positions. Moreover, it is to be noted that these claims now recite that the fluid control means is associated with the travel limiter end positions and is engageable thereby. Thus, with this language in the claim, it is obvious that there is a physical element which is engaged by the travel limiter end position. It is therefore believed that Claim 27 is now allowable.

Claim 76 has also been amended to delete reference to the term pool.

It was indicated that Claims 1-4, 9-11, 13-18 and 68-77 would be allowable if rewritten. These claims have been amended and are therefore believed to be allowable. New Claim 89 replaces former Claim 77. Claims 19, 22, 24, 26, 27, 46-47 and 79-88 are allowed. Amendments have been made to some of the allowed claims, but only to provide antecedent basis or otherwise avoid any informalities. Allowance therefore is noted with appreciation. In view of the foregoing, favorable reconsideration and allowance is respectfully solicited.

Dated: April 28, 2004

Respectfully submitted,

5



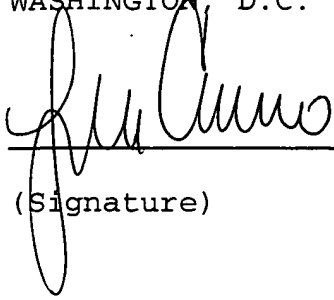
ROBERT J. SCHAAP
Registration No. 20,577
Attorney for Applicant
(818) 346-6555

10

C:\Documents and Settings\All Users\Documents\Data\Aquamatic\09829801\Amendment D

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited
with the United States Postal Service as First Class Mail in an
envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS,
WASHINGTON, D.C. 20231 on 4-29, 2004.


(Signature)

Date of Signature: 4-29, 2004

C:\Documents and Settings\All Users\Documents\Data\Aquamatic\09829801\Amendment D